

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2244 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HAMIRBHAI DEVAYATBHAI AHIR

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner
GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 13/07/98

ORAL JUDGEMENT

IN this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the detention order dated 2.1.1998 passed by the Police Commissioner, Rajkot city under section 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985.

In the grounds of detention supplied to the

petitioner, the detaining authority has placed reliance on the five theft cases registered for the alleged offences under sec. 454, 457, 380, 114 of IPC. Four cases are registered by B-Division Police Station, while one is registered by Bhaktinagar Police Station, Rajkot. Over and above this criminal cases, unregistered offence, as can be seen from the statements of three witnesses whose identity has not been disclosed to the petitioner by exercising the powers under sec. 9(2) of the Act, for the alleged incidents dated 2.11.97, 30.11.97 and 14.12.1997. In the said incidents, the concerned witnesses have been beaten on the ground that the witnesses have refused to keep the hand-bag of the petitioner on the suspicion that the same carries stolen articles and, also on the ground that the witnesses refused to give Rs 250/ demanded as by the petitioner and, also on the ground that the petitioner and his men refused to pay the amount for the eatable items already consumed by them. When this witnesses were beaten, it is alleged that many people gathered and they started running helter and skelter when the petitioner and his men ran towards them with the open knife and an atmosphere of fear and terror was created. Considering this materials, the detaining authority has recorded a finding that the petitioner is a dangerous person within the meaning of sec. 2(c) of the Act and, with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, the detention of the petitioner is necessary.

After having heard the learned advocate for the petitioner and having perused the statements of the witnesses, I am clearly of the view that even if the allegations made against the petitioner are accepted on its face value, the alleged activities of the petitioner cannot be treated as the breach of public order, as the same at the most can be termed as breach of law and order. The statements of the witnesses appears to be stereo type statements, general and vague in nature. This material is not enough to brand the petitioner as dangerous person and, therefore, the satisfaction arrived at by the detaining authority is not genuine. Under the circumstances, the detention order vitiates.

In the result, this petition is allowed. The impugned order of detention dated 2.1.1998 is set aside. The petitioner is ordered to be released forthwith if he is not required for any other lawful reason. Rule made absolute. At the request of the learned advocate for the petitioner, writ of this order be sent to the Central Jail, Baroda.
